

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES

V.

CR NO. 04-10299-PBS

RICARDO ESTRADA

DEFENDANT'S MOTION TO REVOKE ORDER OF DETENTION

Defendant Ricardo Estrada, by his attorney, moves pursuant to 18 U.S.C. § 3145(b) that this Court revoke the order of detention dated June 23, 2004.

On May 3, 2004, a criminal complaint was filed charging Mr. Estrada and others with conspiracy to possess with intent to distribute cocaine in violation of 21 U.S.C. §§ 846.

On May 24, 2004, a consolidated probable cause/detention hearing was conducted.

On June 4, 2004, the Magistrate Judge found probable cause and continued the detention hearing.

On June 23, 2004 the Magistrate Judge issued a Memorandum of Probable Cause and Order of Detention.

On July 2, 2004 Mr. Estrada filed a motion to reconsider and the Magistrate Judge denied the motion to reconsider on July 12, 2004.

The Court ruled pursuant to 18 U.S.C. §§ 3142(f)(2)(A) that there are no condition or combination of conditions that would assure Mr. Estrada's appearance as required.

The Court did not detain Mr. Estrada as a risk of flight

Mr. Estrada has no criminal record.

Mr. Estrada's personal history and characteristics are set forth at page 6 of the Magistrate Judge's June 22, 2004 and incorporated herein. In summary, he is a legal resident alien whose

permanent address is in California. For the past seventeen years he was worked as a long distance truck driver. Mr. Estrada's immediate family, his former wife and three minor children live in Los Angeles, and his extended family also reside in the Los Angeles area.

Mr. Estrada submits that the initial order of detention should be revoked and that the following proposed conditions of release are reasonable and will in fact assure the safety of the community:

1. An appearance bond secured by the equity in Antonio Estrada's (defendant's brother) home at 9563 San Pablo Avenue, Hesperia, California.. The property has an assessed value of \$195,000.00;
2. In person and/or telephone reporting to pre-trial services office;
3. Obey all statutory and reporting requirements as ordered by the Court and pre-trial services office.

To whatever extent the court below based its order of detention on the weight of the evidence against Mr. Estrada, the court's findings are, in part, incorrect. Specifically, the magistrate judge stated that "Mr. Estrada was intercepted and recorded making arrangements for the delivery of substantial amounts of cocaine ...". The government has consistently represented to defense counsel that Mr. Estrada was NOT intercepted or recorded during the course of its investigation.

The conditions of release proposed herein were not presented to the magistrate judge since at the time of the detention hearing the property was not available to be proffered as security for release. The best that Mr. Estrada could proffer was a \$10,000.00 cash deposit. The addition of a family residence which would be forfeited to the government in the event of Mr.

Estrada's non-appearance is the most powerful incentive available to satisfy this Court that release conditions may now be fashioned.

CONCLUSION:

There are specific, strict and reasonable conditions of pre-trial release which will assure Mr. Estrada's appearance at trial. Mr. Estrada's brother, Antonio Estrada, is prepared to grant a mortgage and deed to the Court to be held as security for release. Additional conditions may also be set by the Court.

Accordingly, this Court should conduct a hearing on this motion and thereafter revoke the order of detention and establish and order conditions for Mr. Estrada's pre-trial release.

RICARDO ESTRADA
By his attorney,

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